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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,723	06/12/2001	Martin K. Tarvydas	INFS-1-16372	4943

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EXAMINER	
ROSEN, NICHOLAS D	
ART UNIT	**PAPER NUMBER**
3625	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/880,723	TARVYDAS ET AL.	
	Examiner	Art Unit	
	Nicholas D. Rosen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 May 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,5,10-12,22-24,27 and 48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4,5,10-12,22-24,27 and 48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 June 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1, 2, 4, 5, 10, 11, 12, 22, 23, 24, 27, and 48 have been considered.

Claim Objections

Claim 5 is objected to because of the following informalities: The element, "polling said merchant on their experience," poses difficulties. Presumably, one would not need to poll a particular merchant on his experience with a consumer, and then send that reputation information to said merchant, who would apparently know it already. Also "their" raises the question of whether the claim is referring to a plurality of merchants; if not, "their experience" should be "his or her experience", "said merchant's experience", or something similar. It appears more likely that claim 5 is intended to recite polling the plurality of merchants, and should recite "polling said plurality of merchants on their experience". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 10, 12, 22, 23, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove et al. (U.S. Patent 6,725,222) in view of Daly et al. (U.S. Patent 5,878,141). As per claim 1, Musgrove discloses a method of processing product orders, via a network, to allow consumers to order products from a plurality of merchants from a web page comprising a consistent user interface, comprising the steps of retrieving a universal shopping cart; searching a local database for information relating to a product prior to searching a plurality of websites for said information; displaying said information from said plurality of websites within said web page comprising a consistent user interface; receiving a product selection command from a consumer indicative of selecting a product; adding said selected product to the universal shopping cart; and injecting a product order to one of the plurality of merchants associated with said selected product in said universal shopping cart (Abstract; column 2, lines 28-55; column 5, lines 14-48; column 7, lines 22-67; column 9, lines 1-16; and Figures 1-4). Musgrove does not disclose identifying a common accepted payment method from the plurality of merchants, wherein said common accepted payment method is displayed within the webpage, but Daly teaches identifying and displaying a payment method accepted by a merchant, out of a plurality of merchants for which data

is maintained, and matching acceptable forms of payment for multiple users (merchants and purchasers) (Abstract; column 3, line 60, through column 4, line 29; column 5, lines 47-60; column 7, lines 18-63; column 12, lines 35-42; Figures 2, 5, 6, and 7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to identify a common accepted payment method from the plurality of merchants, and display said common accepted payment method within the webpage, for the stated advantage of enabling consumers to readily choose an acceptable payment method.

As per claim 10, Musgrove does not disclose the detailed procedure of obtaining services from a merchant's site associated with said product; pattern matching said services; and creating instances of parameterized service for each state that contain essential details required to navigate said merchant's site and place said product order, wherein a state is a set of methods and data that have input criteria and exit criteria for any section of the form in the check out process; but Musgrove does disclose obtaining service from a merchant's site associated with products, with pattern matching implied by search (column 5, lines 14-48), and the disclosed navigation of merchant sites and ordering of products (column 5, and the other sections cited in regard to claim 1 above) is held to imply instances of services with the essential details required to carry out Musgrove's disclosed method.

As per claim 12, this is held to be obvious on at least the grounds set forth with regard to claim 10 above.

As per claim 22, Musgrove discloses that the product information includes information on a plurality of products of the same product type sold by a plurality of merchants to allow the consumer to view product information on the web page comprising a consistent user interface in order to compare products of the same product type sold by different merchants (Abstract; column 5, lines 30-48).

As per claim 23, Musgrove discloses assigning a product key to each selected product to uniquely identify the selected product and a merchant associated with the selected product (ibid., as per claim 1; Figures 3 and 4).

As per claim 48, Musgrove discloses that the local database can be populated by at least one product vendor (column 5, lines 14-29).

Claims 2 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove and Daly as applied to claim 1 above, and further in view of Bezos et al. (U.S. Patent 6,029,141). As per claim 2, Musgrove does not expressly disclose that retrieving the universal shopping cart comprises determining whether an existing universal shopping cart is associated with the consumer, and creating a new universal shopping cart when no existing universal shopping cart is associated with the consumer, but Bezos teaches doing this (column 7, line 61, through column 8, line 31; column 14, lines 21-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, for the obvious advantage of arranging for the consumer to have a shopping cart as needed to make purchases, and for the stated advantages of enabling the consumer to conduct extended shopping sessions, and tracking and crediting referral events, and the obvious

advantage of maintaining records of a particular consumer's orders, for future advertising, resolving disputes regarding products not received, or not in satisfactory condition, etc.

As per claim 24, Bezos teaches retrieving the shopping cart from a shopping cart database that includes consumer information and information on previously saved product items (column 7, line 61, through column 8, line 31; column 14, lines 21-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, for the stated advantages of enabling the consumer to conduct extended shopping sessions, and tracking and crediting referral events, and the obvious advantage of maintaining records of a particular consumer's orders, for future advertising, resolving disputes regarding products not received, or not in satisfactory condition, etc.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove and Daly as applied to claim 1 above, and further in view of Walker et al. (U.S. Patent 5,862,223). **As per claim 4**, Musgrove does not disclose retrieving reputation information on the consumer from a reputation database and sending said reputation information to the said merchant, but it is well known to maintain a database of reputation information on buyers and send the information to sellers, as taught, for example, by Walker (column 2, lines 11-14). **As per claim 5**, the reputation information in Walker is gathered by a form of polling merchants on their experiences with the consumer (ibid.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to retrieve such reputation

information, send it to the merchant, and gather the reputation information by polling, as recited, for the stated advantage of enabling sellers to evaluate buyers' reputations (and thereby decide whether to do business with the buyers).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove and Daly as applied to claim 10 above, and further in view of official notice. Musgrove does not disclose that the services are obtained from the merchant's site by obtaining a copy of each page of the merchant's site relating to product orders using a plurality of accounts, but Musgrove discloses a plurality of shoppers with their distinct accounts (e.g., column 6, lines 32-46), and official notice is taken that it is well known to search all relevant pages of relevant websites, and/or to obtain copies, while Musgrove discloses culling product information from merchant sites by automated Web crawlers or other means (column 5, lines 14-48). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to obtain the services from each merchant's site by obtaining a copy of each page of said merchant's site relating to product orders using a plurality of accounts, for the obvious advantage of obtaining all relevant product information, so as to assist consumers in their searching and ordering of products.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove and Daly as applied to claim 1 above, and further in view of official notice. Musgrove does not disclose that the consumer is an electronic agent of a human consumer, but such electronic agents (known as "shopping bots" or by similar terms) are well known. Hence, it would have been obvious to one of ordinary skill in the art of

electronic commerce at the time of applicant's invention for the consumer to be an electronic agent of a human consumer, for the obvious advantage of profiting from the business of human consumers using such electronic agents to find bargains.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4, 5, 10, 11, 12, 22, 23, 24, 27, and 48 have been considered but are moot in view of the new ground(s) of rejection. Examiner acknowledges apparent discrepancies between the pending claims and the previous Office action, necessitating further search and consideration, but on the basis of the art of record, is not persuaded that the claims are allowable; therefore a new non-final rejection is being sent.

In response to Applicant's quite reasonable request for Examiner to clarify the correct pending claims and rejections, Examiner – who has inherited the case from a former colleague who has left the Patent Office – replies that notwithstanding prior Office actions, he regards the pending claims as those most recently submitted by Applicant (claims 1, 2, 4, 5, 10, 11, 12, 22, 23, 24, 27, and 48), and the correct rejections as those set forth above.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hurwitz (U.S. Patent 6,856,963) discloses facilitating electronic commerce through automated data-based reputation characterization. Chen et al. (U.S. Patent 7,058,598) disclose a web price optimizer of multiple-item package orders for e-commerce on the Internet and method of use. Shimada (U.S. Patent Application Publication 2002/0194125) discloses a method and software article for selecting electronic payment of vendors in an automated payment environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's current acting supervisor, Yogesh Garg, can be reached at 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nicholas D. Rosen

NICHOLAS D. ROSEN
PRIMARY EXAMINER
July 14, 2006